

## REMARKS

### Amendments to the Claims

Claims 14 and 15 are pending. Claim 14 is herein amended. New claims 16 and 17 are herein added. Support for these claims can be found in the Specification at page 6, lines 6-9, page 25, Example 15, and page 26, Example 17. No new matter has been added.

### Claims Rejected under 35 U.S.C. 103(a)

The Examiner has rejected claims 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Haynes (U. S. Patent No. 5,169,669) in view of evidence prior art by NPL Vegetable oil FA composition and in view of Gilbertson (U. S. Patent No. 6,166,076).

The Examiner applies Haynes for the disclosure of "heating cooking oil containing e.g., 99% canola oil . . . which is vegetable cooking oil wherein the oil is refined, bleached and deodorized . . . to avoid offensive odor during cooking . . . in order to make the oil appropriate for use as frying oil" (Office Action, page 3). The Examiner acknowledges that Haynes do not teach "(a) fat and amount of PUFA in the cooking oil and (b) enhancing the body taste of foods" (Office Action, page 3). The Examiner uses the NPL Vegetable Oil FA composition to support the assertion that canola oil has 8-22 % linolenic acid, which is denoted as C18:3 in the NPL.

The Examiner also asserts that Gilbertson teaches that linolenic acid "which has 18 carbon atoms (n-6) and three double bonds" stimulate taste receptors (Office Action, page 4). The Examiner asserts that Gilbertson "teaches about a method for making various foods with cis polyunsaturated fatty acids. . . in order to stimulate taste receptors in the mouth" (Office Action, page 4). The Examiner concludes that therefore, Gilbertson teaches "enhancing body taste of foods" (Office Action, page 4).

Applicants respectfully submit that the Examiner has failed to establish *prima facie* obviousness of the claimed method because the cited references fail to teach every feature of the claimed methods.

First, Applicants submit that the 8-22% cited by the Examiner as taught by Haynes as evidence by NPL Vegetable oil refers to a fatty acid which is excluded by the claims.

Specifically, "C 18:3 Linolenic" as recited in NPL Vegetable Oil refers to  $\alpha$ -linolenic acid, which is an n-3 unsaturated fatty acid having 18 carbons. This is supported by Bailey's Industrial Oil and Fat Products, Fifth Ed., Vol. 2, pages 48-49 and 63-64 (attached). In table 1.16 on page 48 of Bailey's it can be seen that canola oil has an  $\alpha$ -linolenic acid content of 9.6% by weight. However, the  $\gamma$ -linolenic acid (C18:3n-6) is not found in canola oil. Accordingly, Applicants submit that the Examiner has failed to establish *prima facie* obviousness of the presently claimed methods. Applicants therefore request that the rejection be withdrawn.

Second, the combination of Haynes, NPL Vegetable Oil, and Gilbertson fail to teach the feature of adding or mixing an n-3 long-chain highly unsaturated fatty acid having 20 or more carbon atoms and 3 or more double bonds, or an n-6 long-chain highly unsaturated fatty acids having 18 or more carbon atoms and 3 or more the double bonds to vegetable fat and oil (claim 1). Haynes certainly does not speak of adding any particular fatty acid to any type of oil. Gilbertson only speaks of adding fatty acids to foods (see col. 3, lines 39-40, col. 9, lines 11-13), not oils, and provides no data as to whether such addition actually improved the taste of the food at all, let alone in the flavor of "body taste." Thus, since the combined references fail to teach adding a fatty acid to a vegetable fat and oil, Applicants submit that the combined references fail to teach every element of the claimed invention. For at least this reason, Applicants request that the rejection be withdrawn.

In addition, Applicants submit that the combined references fail to provide a reasonable expectation of success in improving the "body taste" of a food. As discussed above, Gilbertson fails to teach a "taste test" of actual food in the *in vitro* isolated taste bud model, or an *in vivo* taste test of either the fatty acid alone or of food. Furthermore, the Specification indicates that "There has been a problem that the addition of the long-chain highly unsaturated fatty acid to foods would deteriorate their taste due to odor smell reversion flavor derived from oxidized decomposition of the fatty acid" (Specification, page 2, lines 28-31). Thus, in view of the lack of teaching in Haynes, the uncertainty of efficacy to improve body taste in Gilbertson, and the statements of the Specification, Applicants submit that one of skill in the art could not combine Haynes, NPL Vegetable Oil, and Gilbertson with any reasonable expectation of success in

improving the body taste of foods. For this additional reason, Applicants request that the rejection be withdrawn.

Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance. Reconsideration of the rejections and allowance of the claims are respectfully requested. Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman Reg. No. 47,604 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By:  #47,604

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Attachments: Bailey's Industrial Oil and Fat Products, pages 48 -49 and 63-64